

U.S. Fish and Wildlife Serv., Interior

§ 28.32

wildlife refuge is prohibited except as may be authorized by special permit.

PART 28—ENFORCEMENT, PENALTY, AND PROCEDURAL REQUIREMENTS FOR VIOLATIONS OF PARTS 25, 26, AND 27

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AUTHORITY: Sec. 2, 33 Stat. 614, as amended (16 U.S.C. 685); sec. 5, 43 Stat. 651 (16 U.S.C. 725); sec. 5, 45 Stat. 449 (16 U.S.C. 690d); sec. 10, 45 Stat. 1224 (16 U.S.C. 715i); sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); sec. 4, 76 Stat. 654 (16 U.S.C. 460k); sec. 4, 80 Stat. 927 (16 U.S.C. 668dd) (5 U.S.C. 301).

SOURCE: 41 FR 9171, Mar. 3, 1976, unless otherwise noted.

Subpart A—Introduction

§ 28.11 Purpose of regulations.

The regulations in this part govern the enforcement, penalty and procedural requirements for violations of parts 25, 26, and 27.

Subpart B—Enforcement Authority

§ 28.21 General provisions.

Refuge managers and other authorized personnel are authorized pursuant to authority delegated from the Secretary and which has been published in the FEDERAL REGISTER (Administrative Manual 4 AM 4.2) to protect fish and wildlife and their habitat and prevent their disturbance, to protect Service lands, property, facilities, or interests therein and to insure the safety of the using public to the fullest degree pos-

sible. The control of recreational use will be enforced to meet these purposes pursuant to Federal, State, and local laws and regulations: The provisions of this subchapter C and any special regulations issued pursuant thereto; and the prohibitions and restrictions as posted.

[41 FR 9171, Mar. 3, 1976, as amended at 44 FR 42976, July 23, 1979; 51 FR 7575, Mar. 5, 1986]

Subpart C—Penalty Provisions

§ 28.31 General penalty provisions.

(a) Any person who violates any of the provisions, rules, regulations, posted signs, or special regulations of this subchapter C, or any items, conditions or restrictions in a permit, license, grant, privilege, or any other limitation established under the subchapter C shall be subject to the penalty provisions of this section.

(b) Failure of any person, utilizing the resources of any national wildlife refuge or enjoying any privilege of use thereon for any purpose whatsoever, to comply with any of the provisions, conditions, restrictions, or requirements of this subchapter C or to comply with any applicable provisions of Federal or State law may render such person liable to:

(1) The penalties as prescribed by law. (Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 4, 80 Stat. 927, as amended, 16 U.S.C. 668dd(e); Sec. 7, 60 Stat. 1080, 16 U.S.C. 666a; Sec. 6, 40 Stat. 756, as amended, 16 U.S.C. 707; Sec. 7, 48 Stat. 452, 16 U.S.C. 718g; Sec. 2, 33 Stat. 614, as amended, 18 U.S.C. 41.)

(2) [Reserved]

§ 28.32 Penalty provisions concerning fires and timber.

(a) Any person violating sections 1855-1856 of the Criminal Code (18 U.S.C. 1855-1856) as they pertain to fires on national wildlife refuge lands of the United States shall be subject to civil action and to the penalty provisions of the law.

(b) Any person violating sections 1852-1853 of the Criminal Code (18 U.S.C. 1852-1853) as they pertain to timber on national wildlife refuge lands of the United States shall be subject to civil action and to the penalty provisions of the law.

**Subpart D—Impoundment
Procedures**

§ 28.41 Impoundment of abandoned property.

Any property abandoned or left unattended without authority on any national wildlife refuge for a period in excess of 72 hours is subject to removal. The expense of the removal shall be borne by the person owning or claiming ownership of the property. Such property is subject to sale or other disposal after 3 months, in accordance with section 203m of the Federal Property and Administrative Services Act of 1959, as amended (40 U.S.C. 484m), and regulations issued thereunder. Former owners may apply within 3 years for reimbursement for such property, subject to disposal and storage costs and similar expenses, upon sufficient proof of ownership.

§ 28.42 Impounding of domestic animals.

(a) Any animal trespassing on the lands of any national wildlife refuge may be impounded and disposed of in accordance with State statutes insofar as they may be applicable. In the absence of such State statutes, the animals shall be disposed of in accordance with this section.

(b) If the owner is known, prompt written notice of the impounding will be served in person with written receipt obtained or delivery by certified mail with return receipt requested. In the event of his failure to remove the impounded animal within five (5) days from receipt of such notice, it will be sold or otherwise disposed of as prescribed in this section.

(c) If the owner is unknown, no disposition of the animal shall be made until at least fifteen (15) days have elapsed from the date of a legal notice of the impounding has been posted at the county courthouse and 15 days after the second notice published in a newspaper in general circulation in the county in which the trespass took place.

(d) The notice shall state when and where the animal was impounded and shall describe it by brand or earmark or distinguishing marks or by other reasonable identification. The notice

shall specify the time and place the animal will be offered at public sale to the highest bidder, in the event it is not claimed or redeemed. The notice shall reserve the right of the official conducting the sale to reject any and all bids so received.

(e) Prior to such sale, the owner may redeem the animal by submitting proof of ownership and paying all expenses of the United States for, capturing, impounding, advertising, care, forage, and damage claims.

(f) If an animal impounded under this section is offered at public sale and no bid is received or if the highest bid received is an amount less than the claim of the United States, the animal may be sold at private sale for the highest amount obtainable, or be condemned and destroyed or converted to the use of the United States. Upon the sale of any animal in accordance with this section, the buyer shall be issued a certificate of sale.

(g) In determining the claim of the Federal Government in all livestock trespass cases on national wildlife refuges, the value of forage consumed shall be computed at the commercial unit rate prevailing in the locality for that class of livestock. In addition, the claim shall include damages to national wildlife refuge property injured or destroyed, and all the related expenses incurred in the impounding, caring for and disposing of the animal. The salary of Service employees for the time spent in and about the investigations, reports, and settlement or prosecution of the case shall be prorated in computing the expense. Payment of claims due the United States shall be made by certified check or postal money order payable to the U.S. Fish and Wildlife Service.

§ 28.43 Destruction of dogs and cats.

Dogs and cats running at large on a national wildlife refuge and observed by an authorized official in the act of killing, injuring, harassing or molesting humans or wildlife may be disposed of in the interest of public safety and protection of the wildlife.